

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ALLSTATES REFRACTORY CONTRACTORS,
LLC,

Plaintiff,

v.

MARTIN J. WALSH, in his official capacity
as Secretary of Labor, *et al.*,

Defendants.

No. 3:21-cv-01864-JZ

MOTION REQUESTING ORAL ARGUMENT

Plaintiff Allstates Refractory Contractors, LLC, respectfully requests that the Court schedule oral argument on the parties' fully briefed dispositive motions. Counsel for the parties conferred about this motion on March 3.

1. This case raises a question of exceptional importance: whether Congress's delegation of legislative power to the Executive Branch in the Occupational Safety and Health Act violates Article I and the nondelegation doctrine. *See generally* Compl., ECF No. 1.

2. On December 3, 2021, Allstates moved for summary judgment on the single claim for relief in Allstates' Complaint. *See* ECF Nos. 23, 23-1. On January 14, 2022, the government filed a motion to dismiss and, in the alternative, a cross-motion for summary judgment, and opposition to Allstates' motion. *See* ECF Nos. 24, 24-1. On February 14, Allstates filed a reply and opposition. *See* ECF No. 25. On February 25, the government filed a reply. *See* ECF No. 26. The parties' dispositive motions are thus fully briefed.

3. Section 3 of the Court's Civil Case Management Procedures provides that the Court "will hold oral argument if [the Court] believes it will be helpful."

4. Allstates would welcome the opportunity to present oral argument on the pending dispositive motions if the Court believes it would be helpful in deciding the important constitutional question presented in this case.

5. Counsel for Allstates is available to appear for oral argument during the months of March, April, May, and June except between April 11-15.

6. On March 3, counsel for Allstates requested the government's position on Allstates' request for oral argument. Counsel for the government responded: "Defendants believe that the pending motions can be decided on the submitted papers. However, if the Court would like to schedule oral argument, counsel for Defendants can be available in April, May, or June other than April 18-20 and May 23-27."

Dated: March 4, 2022

Respectfully submitted,

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*Counsel for Plaintiff Allstates Refractory
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CERTIFICATES OF SERVICE

I hereby certify that on March 4, 2022, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/ Christopher M. McLaughlin

Counsel for Plaintiff

Allstates Refractory Contractors, LLC